

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

| | | |
|--------------------|---|------------------------------|
| PATRICIA MADRIGAL, |) | |
| |) | |
| Plaintiff, |) | Case No. <u>2022cv005153</u> |
| |) | |
| v. |) | (Removed from the |
| |) | Circuit Court of Cook County |
| MENARD, INC. |) | Case No. 2022L006195) |
| |) | |
| Defendant. |) | JURY DEMAND |

NOTICE OF REMOVAL

NOW COMES the Defendant, MENARD, INC. ("Menard"), by and through its attorneys, Ottosen DiNolfo Hasenbalg & Castaldo, Ltd., pursuant to 28 U.S.C. §§ 1332, 1367, and 1441, and files this Notice of Removal of the above captioned matter from the Circuit Court of Cook County, Illinois, under Case Number 2022L006195 to this Honorable Court.

In support of this Notice, Menard states the following:

JURISDICTION

1. This action is a civil action of which this Court has original jurisdiction over the Complaint, under 28 U.S.C. § 1332(a)(1), which may be removed to this Court by Menard pursuant to the provisions of 28 U.S.C. § 1441(a) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, because the Plaintiff, PATRICIA MADRIGAL, is a citizen of Illinois; the Defendant, Menard, is a Wisconsin Corporation; and Plaintiff is seeking from Menard damages in excess of \$75,000 for serious personal injuries.

STATEMENT OF FACTS

2. On July 19, 2022, an action was commenced in the Circuit Court of Cook County, Illinois, entitled “PATRICIA MADRIGAL, Plaintiff, v. MENARD, INC., Defendant” (Case Number 2022L006195).
3. A summons for Menard was issued on July 19, 2022, and with a copy of the Plaintiff’s Complaint, was served on July 21, 2022.
4. A copy of all process, pleadings and orders served upon Menard in the state court action are attached hereto as **Exhibit A**.
5. Defense counsel’s initial investigation into the matter revealed only a sprained ankle and a bill of only \$970.
6. In addition, counsel for Defendant reached out to Plaintiff’s counsel, Christopher Goril, on August 19, 2022, to assess the value of the case and Plaintiff’s counsel indicated that they had no bills in their file yet and that he thought it was a “smaller case.”
7. As a result, Defendant answered the Plaintiff’s Complaint.
8. On September 15, 2022, the parties appeared in the Circuit Court of Cook County for an initial case management hearing.
9. At the initial hearing, upon the court’s specific and only inquiry, Plaintiff’s counsel represented to the Honorable Judge Flanagan that there was \$55,000 in medical bills, that the Plaintiff would seek more than \$75,000 in damages, and asserted in court that he suspected the Defendant would thereafter remove the matter to federal court. Plaintiff’s counsel followed up with Defendant’s counsel in writing

on September 15, 2022, confirming he would seek more than \$75,000 in damages, (Exhibit B)

BASIS FOR REMOVAL

10. Removal of a civil action is allowed under 28 U.S.C. § 1441 by a Defendant who is sued on a claim or right that has original jurisdiction in the federal district court.
11. Plaintiffs' Complaint at Law is removable based on 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds \$75,000 and there is complete diversity of citizenship between the plaintiff and the defendant, thus the action is within the subject matter jurisdiction of this Court.
12. At the time that this action commenced, PATRICIA MADRIGAL, was, and continues to be, a citizen of the State of Illinois based upon the representations made by Plaintiff in her Complaint at Law.
13. At the time that this action commenced, Menard was, and continues to be, a corporation incorporated under the laws of Wisconsin, having its principal place of business in the State of Wisconsin at 5101 Menard Drive, Eau Claire, Wisconsin 54703.
14. This action is a civil action in which the matter in controversy is now known to exceed the sum of \$75,000, exclusive of interest and costs, because PATRICIA MADRIGAL through her counsel, for the first time evident to the Defendant, represented in open court on September 15, 2022, and then in writing to counsel for the Defendant on that same day, that the Plaintiff seeks more than \$75,000 in damages. At no time before September 15 2020, did the Defendant have a reasonable expectation that the damages could amount to \$75,000.

15. Thus, the case as stated by the initial pleading was not removable, but Defendant learned that it had become removable upon Plaintiff's representation to the state trial court at the initial case management hearing on September 15, 2022. In accordance with 28 U.S.C. § 1446(b)(3), Defendant is removing this matter within 30 days of ascertaining that the case is one which is removable.

COMPLIANCE WITH REMOVAL PROCEDURES

16. Menard has complied with all the procedural requirements for removal set forth in 28 U.S.C. § 1446.

17. Notice of this removal is being provided to Plaintiff, through her attorney of record and the Circuit Court of Cook County, Illinois.

18. Pursuant to § 1446(d), a copy of this Notice of Removal will be filed with the Circuit Court of Cook County, Illinois, in Case No. 2022L006195.

WHEREFORE, for the foregoing reasons, the Defendant, Menard, Inc., removes this action from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois, Eastern Division, and respectfully requests that the Court exercise jurisdiction over this matter.

Respectfully submitted,

MENARD, INC.

Dated: September 21, 2022

By: /s/ W. Anthony Andrews
One of its attorneys

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STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, W. ANTHONY ANDREWS, do hereby certify, and having been first duly sworn upon oath do hereby state, that I have read the above and foregoing Notice of Removal, by me subscribed as signatory for MENARD, INC., and the same is true and correct to the best of my knowledge and belief.

/s/ W. Anthony Andrews
W. ANTHONY ANDREWS

SUBSCRIBED and SWORN to before
me this 21st day of September 2022.

/s/ Barb Remus
NOTARY PUBLIC

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